liquors stolen were kept for sale in violation of law (State *v.* May, 20 Iowa, 305; State *v.* Sego, 161 Iowa, 71, 140 N. W. 802; August *v.* State, 11 Ga. App. 798, 76 S. E. 164).'

"'In Osborne *v.* State, 115 Tenn. 717, 719, 92 S. W. 853, 5 Ann. Cas. 797, it is held to be "well settled that a chattel kept for an unlawful purpose, such as intoxicating liquors kept for sale in violation of law, or gambling paraphernalia, the possession of which is prohibited, may be the subject of larceny." See, also, People *v.* Ward, 134 Cal. 301, 309, 66 Pac. 372; Commonwealth *v.* Copper, 130 Mass. 285; Fears *v.* State, 102 Ga. 274, 280, 29 S. E. 463; Averill *v.* Chadwick, 153 Mass. 171, 26 N. E. 441.'

"The conclusion is reached, therefore, that the pertinent inquiry is whether or not the chattel or thing taken is personal property, and not whether the possessor from whom it was taken was holding the same in violation of the laws of this state. Independent of the question of whether Leming was unlawfully possessed of the whisky, the whisky itself had all the characteristics of personal property. It was personal property, and as such was the subject of larceny and of robbery, whether possessed lawfully or unlawfully, and this is true although the state, through its lawfully constituted officers, could seize (and destroy the same) from one unlawfully possessing it."

Streets and Highways—Person with Impaired Eyesight as Guilty of Contributory Negligence.—In Shields *v.* Consolidated Gas Co., 183 N. Y. S. 240, the Supreme Court of New York held in an action for injuries to a pedestrian who fell into an unprotected gas trench, that evidence that plaintiff's eyesight was impaired, and that the excavation occupied a part of the former cross-walk, not to show contributory negligence as a matter of law, though the accident occurred in broad daylight.

The court said in part: "It is well settled that one who is blind or whose eyesight is impaired, is not thereby deprived of the right to use the public highways, and that in venturing onto them he does not do so at his peril. He was only bound in so doing to exercise the care and caution that a person of ordinary prudence, who is blind, or whose eyesight is so impaired, would have exercised under the circumstances; and the principle is the same as that applicable to the use to a street by persons with unimpaired eyesight, but whose sight is of no avail owing to darkness, or is materially affected thereby, and such a person, in the exercise of his right to use the public highways, is justified in assuming, if he does not possess knowledge to the contrary, that the public streets are reasonably safe for travel, and that, if an excavation has been made therein, it will be guarded, or that pedestrians will in some manner be protected from danger there-

from. Harris et al. *v.* Eebelhoer, 75 N. Y. 169; Lortz *v.* N. Y. C. H. R. R. R., 7 App. Div. 515, 40 N. Y. Supp; 253; Jennings *v.* Van Schaick, 108 N. Y. 530, 15 N. E. 424, 2 Am. St. Rep. 459; Stackus *v.* N. Y. C. H. R. R., 79 N. Y. 464; Mamey *v.* Curtis, 113 App. Div. 421, 99 N. Y. Supp. 288. This being the rule of law, it cannot be held as matter of law that the plaintiff was guilty of contributory negligence."

Workmen's Compensation Acts—Basing Compensation on Tips Received without Employer's Knowledge.—In Begendorf *v.* Swift & Co., Inc., 183 N. Y. S. 917, the Supreme Court of New York held that employees receiving "tips" from third parties are entitled to have such sums considered in determining the amount of their awards under the New York Workmen's Compensation Law, provided the employers contemplate that the men should receive such gratuities, but that where a truck driver employed to deliver meat received tips from customers without the knowledge of the employer, the amount so received could not be considered in fixing the amount of compensation under the statute, in the absence of evidence of a custom to give tips to persons so employed.

The court said: "The claimant, who was receiving $25 a week as compensation from his employer, also received on an average $5 per week as tips from the customers of the latter. The question is whether such tips should be taken into consideration in fixing the amount of compensation. He was a truck driver, and delivered meat for the employer, a corporation engaged in the meat business. The tips were received by him when making deliveries of meat to the customers of the employer. It is admitted that the employer had no knowledge of these gratuities.

"Pullman porters, restaurant waiters, taxicab drivers, and others receiving tips from third persons are entitled to have such tips considered in determining the amount of their awards for injuries under the Workmen's Compensation Law (Consol. Laws, c. 67), providing the employers in such cases contemplate and intend that their employees shall receive such gratuities. In such cases the compensation paid by the employers is correspondingly less, and they are therefore benefited by such gratuities. That was the theory of the decisions in Matter of Bryant *v.* Pullman Co., 188 App. Div. 311, 177 N. Y. Supp. 488, affirmed 228 N. Y. 579, 127 N. E. 909, and Matter of Sloat *v.* Rochester Taxicab Co., 177 App. Div. 57, 163 N. Y. Supp. 904, affirmed 221 N. Y. 491, 116 N. E. 1076. The case is different when an employee secretly receives gratuities from outside parties not within the knowledge or contemplation of his employer.

"If the claimant in this case performed services for the customers of the employer for which he was not paid by the latter, he was